

MESSAGE NO: 6268202 MESSAGE DATE: 09/25/2006

MESSAGE STATUS: Active CATEGORY: Countervailing
TYPE: LIQ-Liquidation PUBLIC ☒ NON-PUBLIC ☐
SUB-TYPE:

FR CITE: FR FR CITE DATE:

REFERENCE
MESSAGE #
(s):

CASE #(s): C-475-819

EFFECTIVE DATE: COURT CASE #:

PERIOD OF REVIEW: TO

PERIOD COVERED: 01/01/2005 TO 12/31/2005

Notice of Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: LIQUIDATION INSTRUCTIONS FOR CERTAIN PASTA FROM ITALY (C-475-819)
EXCEPT FOR THE LISTED FIRMS

MESSAGE NO: 6268202

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CASES: C - 475 - 819

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PERIOD COVERED: 01 01 2005 TO 12 31 2005

LIQ SUSPENSION DATE:

TO: DIRECTORS OF FIELD OPERATIONS
PORT DIRECTORS

FROM: DIRECTOR, SPECIAL ENFORCEMENT

RE: LIQUIDATION INSTRUCTIONS FOR CERTAIN PASTA FROM ITALY
(C-475-819) EXCEPT FOR THE LISTED FIRMS

1. THE DEPARTMENT OF COMMERCE DOES NOT AUTOMATICALLY CONDUCT ADMINISTRATIVE REVIEWS OF COUNTERVAILING DUTY ORDERS. INSTEAD, REVIEWS MUST BE REQUESTED IN ACCORDANCE WITH SECTION 351.213 OF THE COMMERCE DEPARTMENT REGULATIONS.

2. IMPORTS COVERED BY THE ORDER ARE SHIPMENTS OF CERTAIN NON-EGG DRY PASTA IN PACKAGES OF FIVE POUNDS FOUR OUNCES OR LESS, WHETHER OR NOT ENRICHED OR FORTIFIED OR CONTAINING MILK OR OTHER OPTIONAL INGREDIENTS SUCH AS CHOPPED VEGETABLES, VEGETABLE

PUREES, MILK, GLUTEN, DIASTASIS, VITAMINS, COLORING AND FLAVORINGS, AND UP TO TWO PERCENT EGG WHITE. THE PASTA COVERED BY THIS SCOPE IS TYPICALLY SOLD IN THE RETAIL MARKET, IN FIBERBOARD OR CARDBOARD CARTONS, OR POLYETHYLENE OR POLYPROPYLENE BAGS OF VARYING DIMENSIONS.

EXCLUDED FROM THE SCOPE OF THE ORDER ARE REFRIGERATED, FROZEN, OR

CANNED PASTAS, AS WELL AS ALL FORMS OF EGG PASTA, WITH THE EXCEPTION OF NON-EGG DRY PASTA CONTAINING UP TO TWO PERCENT EGG WHITE. ALSO EXCLUDED ARE IMPORTS OF ORGANIC PASTA FROM ITALY THAT ARE ACCOMPANIED BY THE APPROPRIATE CERTIFICATE ISSUED BY THE ISTITUTO MEDITERRANEO DI CERTIFICAZIONE, BIOAGRICOOOP S.R.L., QC&I INTERNATIONAL SERVICES, ECOCERT ITALIA, CONSORZIO PER IL CONTROLLO DEI PRODOTTI BIOLOGICI, ASSOCIAZIONE ITALIANA PER L'AGRICOLTURA BIOLOGICA, OR CODEX S.R.L. IN ADDITION, BASED ON PUBLICLY AVAILABLE INFORMATION, THE DEPARTMENT HAS DETERMINED THAT, AS OF AUGUST 4, 2004, IMPORTS OF ORGANIC PASTA FROM ITALY THAT ARE ACCOMPANIED BY THE APPROPRIATE CERTIFICATE ISSUED BY BIOAGRICERT S.R.L. ARE ALSO EXCLUDED FROM THIS ORDER. SEE MEMORANDUM FROM ERIC B. GREYNOLDS TO MELISSA G. SKINNER, DATED AUGUST 4, 2004, WHICH IS ON FILE IN THE DEPARTMENT'S CENTRAL RECORDS UNIT ("CRU") IN ROOM B-099 OF THE MAIN DEPARTMENT BUILDING. IN ADDITION, BASED ON PUBLICLY AVAILABLE INFORMATION, THE DEPARTMENT HAS DETERMINED THAT, AS OF MARCH 13, 2003, IMPORTS OF ORGANIC PASTA FROM ITALY THAT ARE ACCOMPANIED BY THE APPROPRIATE CERTIFICATE ISSUED BY ISTITUTO PER LA CERTIFICAZIONE ETICA E AMBIENTALE (ICEA) ARE ALSO EXCLUDED FROM THIS ORDER. SEE MEMORANDUM FROM AUDREY TWYMAN TO SUSAN KUHACH, DATED FEBRUARY

28, 2006, ENTITLED "RECOGNITION OF ISTITUTO PER LA CERTIFICAZIONE ETICA E AMBIENTALE (ICEA) AS A PUBLIC AUTHORITY FOR CERTIFYING ORGANIC PASTA FROM ITALY" WHICH IS ON FILE IN THE DEPARTMENT'S CENTRAL RECORDS UNIT ("CRU") IN ROOM B-099 OF THE MAIN DEPARTMENT BUILDING.

THE MERCHANDISE SUBJECT TO REVIEW IS CURRENTLY CLASSIFIABLE UNDER

ITEMS 1901.90.90.95 AND 1902.19.20 OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES ("HTSUS"). ALTHOUGH THE HTSUS SUBHEADINGS ARE PROVIDED FOR CONVENIENCE AND CUSTOMS PURPOSES, THE WRITTEN DESCRIPTION OF THE MERCHANDISE SUBJECT TO THE ORDER IS DISPOSITIVE.

SCOPE RULINGS

THE DEPARTMENT HAS ISSUED THE FOLLOWING SCOPE RULINGS TO DATE:

(1) ON AUGUST 25, 1997, THE DEPARTMENT ISSUED A SCOPE RULING THAT MULTICOLORED PASTA, IMPORTED IN KITCHEN DISPLAY BOTTLES OF DECORATIVE GLASS THAT ARE SEALED WITH CORK OR PARAFFIN AND BOUND WITH RAFFIA, IS EXCLUDED FROM THE SCOPE OF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS. SEE MEMORANDUM FROM

EDWARD EASTON TO RICHARD MORELAND, DATED AUGUST 25, 1997, WHICH IS ON FILE IN THE CRU. THIS SCOPE RULING WAS PUBLISHED IN THE FEDERAL REGISTER ON 02/10/1998 (63 FR 6722).

(2) ON JULY 30, 1998, THE DEPARTMENT ISSUED A SCOPE RULING FINDING THAT MULTIPACKS CONSISTING OF SIX ONE-POUND PACKAGES OF PASTA THAT ARE SHRINK-WRAPPED INTO A SINGLE PACKAGE ARE WITHIN THE SCOPE OF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS. SEE LETTER FROM SUSAN H. KUHBACH TO BARBARA P. SIDARI, DATED JULY 30, 1998, WHICH IS AVAILABLE IN THE CRU. THIS SCOPE RULING WAS PUBLISHED IN THE FEDERAL REGISTER ON 11/04/1998 (63 FR 59544).

(3) ON OCTOBER 23, 1997, THE PETITIONERS FILED AN APPLICATION REQUESTING THAT THE DEPARTMENT INITIATE AN ANTI-CIRCUMVENTION INVESTIGATION OF BARILLA S.R.L. ("BARILLA"), AN ITALIAN PRODUCER AND EXPORTER OF PASTA. THE DEPARTMENT INITIATED THE INVESTIGATION ON DECEMBER 8, 1997. SEE INITIATION OF ANTI-CIRCUMVENTION INQUIRY ON ANTIDUMPING DUTY ORDER ON CERTAIN PASTA FROM ITALY, 62 FR 65673 (DECEMBER 15, 1997). ON OCTOBER 5, 1998, THE DEPARTMENT ISSUED ITS FINAL DETERMINATION THAT, PURSUANT TO SECTION 781(A) OF THE TARIFF ACT OF 1930, AS

AMENDED BY THE URUGUAY ROUND AGREEMENTS ACT ("URAA"), EFFECTIVE JANUARY 1, 1995 ("THE ACT"), CIRCUMVENTION OF THE ANTIDUMPING ORDER ON PASTA FROM ITALY WAS OCCURRING BY REASON OF EXPORTS OF BULK PASTA FROM ITALY PRODUCED BY BARILLA THAT SUBSEQUENTLY WERE REPACKAGED IN THE UNITED STATES INTO PACKAGES OF FIVE POUNDS OR LESS FOR SALE IN THE UNITED STATES. SEE ANTI-CIRCUMVENTION INQUIRY OF THE ANTIDUMPING DUTY ORDER ON CERTAIN PASTA FROM ITALY: AFFIRMATIVE FINAL DETERMINATION OF CIRCUMVENTION OF THE ANTIDUMPING DUTY ORDER, 63 FR 54672 (OCTOBER 13, 1998).

(4) ON OCTOBER 26, 1998, THE DEPARTMENT SELF-INITIATED A SCOPE INQUIRY TO DETERMINE WHETHER A PACKAGE WEIGHING OVER FIVE POUNDS AS A RESULT OF ALLOWABLE INDUSTRY TOLERANCES IS WITHIN THE SCOPE OF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS. ON MAY 24, 1999, WE ISSUED A FINAL SCOPE RULING FINDING THAT, EFFECTIVE OCTOBER 26, 1998, PASTA IN PACKAGES WEIGHING OR LABELED UP TO (AND INCLUDING) FIVE POUNDS FOUR OUNCES IS WITHIN THE SCOPE OF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS. SEE MEMORANDUM

FROM JOHN BRINKMANN TO RICHARD MORELAND, DATED MAY 24, 1999, WHICH IS AVAILABLE IN THE CRU. THIS SCOPE RULING WAS PUBLISHED IN THE FEDERAL REGISTER ON 07/07/2000 (65 FR 41957).

(5) ON APRIL 27, 2000, THE DEPARTMENT SELF-INITIATED AN ANTI-CIRCUMVENTION INQUIRY TO DETERMINE WHETHER PASTIFICIO FRATELLI PAGANI S.P.A.'S IMPORTATION OF PASTA IN BULK AND SUBSEQUENT REPACKAGING IN THE UNITED STATES INTO PACKAGES OF FIVE POUNDS OR LESS CONSTITUTES CIRCUMVENTION WITH RESPECT TO THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS ON PASTA FROM ITALY PURSUANT TO SECTION 781(A) OF THE ACT AND 19 CFR 351.225(B). SEE CERTAIN PASTA FROM ITALY: NOTICE OF INITIATION OF ANTI-CIRCUMVENTION INQUIRY OF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS, 65 FR 26179 (MAY 5, 2000). ON SEPTEMBER 19, 2003, WE PUBLISHED AN AFFIRMATIVE FINDING OF THE ANTI-CIRCUMVENTION INQUIRY. SEE ANTI-CIRCUMVENTION INQUIRY OF THE ANTIDUMPING AND COUNTERVAILING DUTY ORDERS ON CERTAIN PASTA FROM ITALY: AFFIRMATIVE FINAL DETERMINATIONS OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS, 68 FR 54888 (SEPTEMBER 19, 2003).

3. THE DEPARTMENT OF COMMERCE HAS NOT RECEIVED A REQUEST FOR AN ADMINISTRATIVE REVIEW OF THE COUNTERVAILING DUTY ORDER FOR THE PERIODS AND ON THE MERCHANDISE LISTED BELOW, EXCEPT FOR THE FIRMS NOTED. THEREFORE, IN ACCORDANCE WITH SECTION 351.212(c) OF THE COMMERCE DEPARTMENT REGULATIONS, YOU ARE TO ASSESS COUNTERVAILING DUTIES ON MERCHANDISE ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION AT THE CASH DEPOSIT OR BONDING RATE IN EFFECT ON THE DATE OF ENTRY.

CERTAIN PASTA FROM ITALY

C-475-819

01/01/2005 - 12/31/2005

LIQUIDATE ALL ENTRIES FOR ALL FIRMS EXCEPT:

ATAR S.R.L. C-475-819-052

DE MATTEIS AGROALIMENTARE SPA/

OEMASERCE S.R.L. C-475-819-006

PASTIFICIO ANTONIO PALLANTE S.R.L. C-475-819-031

4. ENTRIES OF MERCHANDISE OF EXCEPTED FIRMS SHOULD NOT BE LIQUIDATED UNTIL YOU RECEIVE SPECIFIC INSTRUCTIONS AFTER THE COMPLETION OF THE COUNTERVAILING DUTY REVIEW, CONTINUE TO SUSPEND LIQUIDATION OF ALL ENTRIES OF MERCHANDISE EXPORTED OR PRODUCED BY THE LISTED FIRMS AND ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION DURING THIS PERIOD.

5. THE NOTICE OF LIFTING OF SUSPENSION OF LIQUIDATION FOR THE MERCHANDISE LISTED ABOVE EXPORTED ON OR BEFORE 12/31/2005 OCCURRED WITH THE PUBLICATION OF THE NOTICE OF INITIATION OF ADMINISTRATIVE REVIEW (71 FR 51573, 08/30/2006). THE SUSPENSION OF LIQUIDATION FOR ALL SHIPMENTS OF THE MERCHANDISE LISTED ABOVE EXPORTED AFTER 12/31/2005 WILL CONTINUE.

6. THE ASSESSMENT OF COUNTERVAILING DUTIES BY THE CBP SERVICE ON SHIPMENTS OR ENTRIES OF THIS MERCHANDISE IS SUBJECT TO THE PROVISIONS OF SECTION 778 OF THE TARIFF ACT OF 1930. SECTION 778 REQUIRES THAT CBP PAY INTEREST ON OVERPAYMENTS OR ASSESS INTEREST ON UNDERPAYMENTS, OF THE REQUIRED AMOUNTS DEPOSITED AS ESTIMATED

COUNTERVAILING DUTIES. THE INTEREST PROVISIONS ARE NOT APPLICABLE TO CASH OR BONDS POSTED AS ESTIMATED COUNTERVAILING DUTIES BEFORE THE DATE OF PUBLICATION OF THE COUNTERVAILING DUTY ORDER.

INTEREST SHALL BE CALCULATED FROM THE ENTRY DATE OR DATE OF DEPOSIT WHICHEVER IS LATER, OF ESTIMATED COUNTERVAILING DUTIES THROUGH THE DATE OF LIQUIDATION. THE RATE AT WHICH SUCH INTEREST IS PAYABLE IS THE RATE IN EFFECT UNDER SECTION 6621 OF THE INTERNAL REVENUE CODE OF 1954 FOR SUCH PERIOD.

7. IF THERE ARE ANY QUESTIONS REGARDING THIS MATTER BY CBP OFFICERS, THE IMPORTING PUBLIC OR INTERESTED PARTIES, PLEASE CONTACT DAVINA HASHMI OR RON TRENTAM AT OFFICE OF AD/CVD OPERATIONS, IMPORT ADMINISTRATION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, AT (202) 482-0984 OR (202) 482-3577 RESPECTIVELY (GENERATED BY O1:ART).

8. THERE ARE NO RESTRICTIONS ON THE RELEASE OF THIS INFORMATION.

CATHY SAUCEDA

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party